

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. The petitioner initially began feeding her son *Similac with Iron* brand formula, which was covered under WIC. However, according to his doctor, her son developed "diarrhea, irritability and emesis" (vomiting) on that formula.

3. After an unsuccessful trial of another formula, the petitioner started her son on *Enfamil Lipil with Iron* brand formula. This appears to have been successful, although her son's doctor admits that it is "unusual" that merely changing brands resolves the symptoms of formula intolerance.

4. Unfortunately, however, *Enfamil Lipil with Iron* is on a particular list of formula brands not covered under WIC. When WIC informed the petitioner that it would not cover this formula the petitioner applied for GA, which the Department denied.¹

5. Both the petitioner and her husband work full time. At the hearings in this matter, held on July 28 and August 18, 2004, the petitioner freely admitted that her family's income is well in excess of the GA maximum, and that, if necessary, she has the financial means to purchase the formula on her own. Thus, she admits that her son is not facing a medical emergency at this time.

ORDER

The Department's decision is affirmed.

¹ The petitioner also filed an appeal under the WIC regulations regarding the denial of coverage by the Department of Health. WIC appeals are heard on a contractual basis by the Human Services Board hearing officers, but they are not under the jurisdiction of the Board itself. The hearing officer has issued a separate decision upholding the decision of the Department of Health in denying coverage under WIC.

REASONS

Under Section 2600 of the GA regulations, assistance is available only to those families with income at or below (Reach Up Financial Assistance (RUFA) payment levels unless the family is without income and resources and is facing a "catastrophic situation" specifically defined in § 2602 of the regulations (which includes a definition of "emergency medical need"). As noted above, the petitioner admits that her income is well in excess of the GA (RUFA) maximum and that her family's financial means are sufficient to purchase infant formula even without coverage under WIC. Thus, inasmuch as there is no dispute that the Department acted in accordance with its regulations, the Board is bound to affirm the Department's decision in this matter. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

#